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DEPARTMENT OF EDUCATION

34 CFR Chapter III

Final priority; National Institute on Disability and Rehabilitation Research--Disability and Rehabilitation Research Projects and Centers Program--Rehabilitation Engineering Research Centers

[CFDA Number: 84.133E-1]

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Final priority.

SUMMARY: The Assistant Secretary for Special Education and Rehabilitative Services announces a priority for a Rehabilitation Engineering Research Center (RERC) on Hearing Enhancement under the Disability and Rehabilitation Research Projects and Centers program administered by the National Institute on Disability and Rehabilitation Research (NIDRR). The Assistant Secretary may use this priority for a competition in fiscal year (FY) 2013 and later years. We take this action to focus research attention on areas of national need. We intend to use this priority to improve outcomes for individuals with disabilities.

EFFECTIVE DATE: This priority is effective [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

FOR FURTHER INFORMATION CONTACT: Marlene Spencer, U.S. Department of Education, 400 Maryland Avenue, SW., room 5133, Potomac Center Plaza (PCP), Washington, DC 20202-2700. Telephone: (202) 245-7532 or by email: marlene.spencer@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

This notice of final priority is in concert with NIDRR's currently approved Long-Range Plan (Plan). The Plan, which was published in the Federal Register on April 4, 2013 (78 FR 20299), can be accessed on the Internet at the following site:

[www.ed.gov/about/offices/list/opers/nidrr/policy.html](http://www.ed.gov/about/offices/list/opers/nidrr/policy.html).

Through the implementation of the Plan, NIDRR seeks to improve the health and functioning, employment and community living and participation of individuals with disabilities through comprehensive programs of research, engineering, training, technical assistance, and knowledge translation and dissemination. The Plan reflects NIDRR's commitment to quality, relevance and balance in its

programs to ensure appropriate attention to all aspects of well-being of individuals with disabilities and to all types and degrees of disability, including individuals with low incidence and severe disability. This notice announces a priority that NIDRR intends to use for an RERC competition in FY 2013 and possibly later years. However, nothing precludes NIDRR from publishing additional priorities, if needed. Furthermore, NIDRR is under no obligation to make an award for this priority. The decision to make an award will be based on the quality of applications received and available funding.

Purpose of Program: The purpose of the Disability and Rehabilitation Research Projects and Centers Program is to plan and conduct research, demonstration projects, training, and related activities, including international activities, to develop methods, procedures, and rehabilitation technologies that maximize the full inclusion and integration of individuals with disabilities into society, and support the employment, independent living, family support, and economic and social self-sufficiency of individuals with disabilities, especially individuals with the most severe disabilities; and to improve the effectiveness of services authorized under the

Rehabilitation Act of 1973, as amended (Rehabilitation Act).

#### Rehabilitation Engineering Research Centers (RERCs) Program

The purpose of NIDRR's RERCs program, which is funded through the Disability and Rehabilitation Research Projects and Centers Program, is to improve the effectiveness of services authorized under the Rehabilitation Act. It does so by conducting advanced engineering research, developing and evaluating innovative technologies, facilitating service delivery system changes, stimulating the production and distribution of new technologies and equipment in the private sector, and providing training opportunities. RERCs seek to solve rehabilitation problems and remove environmental barriers to improvements in employment, community living and participation, and health and function outcomes of individuals with disabilities.

The general requirements for RERCs are set out in subpart D of 34 CFR part 350 (What Rehabilitation Engineering Research Centers Does the Secretary Assist?).

Additional information on the RERCs program can be found at: [www.ed.gov/rschstat/research/pubs/index.html](http://www.ed.gov/rschstat/research/pubs/index.html).

Program Authority: 29 U.S.C. 762(g) and 764(b)(3).

Applicable Program Regulations: 34 CFR part 350.

We published a notice of proposed priority (NPP) for this program in the Federal Register on January 17, 2013 (78 FR 3864). That notice contained background information and our reasons for proposing the priority.

Public Comment: In response to our invitation in the NPP, we did not receive any comments on the proposed priority.

FINAL PRIORITY:

Hearing Enhancement.

The Assistant Secretary for Special Education and Rehabilitative Services establishes a priority for a Rehabilitation Engineering Research Center (RERC) on Hearing Enhancement. The RERC must focus on innovative technological solutions, new knowledge, and concepts that will improve the lives of individuals with disabilities.

Under this priority, the RERC must research, develop, and evaluate technologies, methods, and systems that will improve the accessibility, usability, and performance of hearing enhancement technologies (e.g., hearing aids, ear molds, assistive listening devices, and implants) for people with hearing loss, including but not limited to people with untreated hearing loss. This includes: (a) addressing technological factors that prevent or reduce adoption of and benefit from hearing enhancement devices (e.g., hearing aid and implant design features, ear mold

fit and comfort, and assistive listening devices and technologies for group settings); (b) improving the compatibility of hearing enhancement technologies with technologies such as cell phones, mobile devices, television, and the Internet; (c) improving the performance of hearing enhancement devices in social environments (e.g., school, work, recreation, and entertainment); and (d) enhancing aural rehabilitation and consumer involvement strategies (e.g., online access to peer and expert input on hearing technologies and communication strategies; consumer focus groups and surveys; and consumer beta testing and review of products) to maximize hearing enhancement in real-life settings. The RERC must involve key stakeholders (including but not limited to people with hearing loss) in the design and implementation of RERC activities.

Requirements applicable to all RERC priorities:

The RERC must be designed to contribute to the following outcomes:

(1) Increased technical and scientific knowledge relevant to its designated priority research area. The RERC must contribute to this outcome by conducting high-quality, rigorous research and development projects.

(2) Increased innovation in technologies, products, environments, performance guidelines, and monitoring and assessment tools applicable to its designated priority research area. The RERC must contribute to this outcome through the development and testing of these innovations.

(3) Improved research capacity in its designated priority research area. The RERC must contribute to this outcome by collaborating with the relevant industry, professional associations, institutions of higher education, health care providers, or educators, as appropriate.

(4) Improved usability and accessibility of products and environments in the RERC's designated priority research area. The RERC must contribute to this outcome by emphasizing the principles of universal design in its product research and development. For purposes of this section, the term "universal design" refers to the design of products and environments to be usable by all people, to the greatest extent possible, without the need for adaptation or specialized design.

(5) Improved awareness and understanding of cutting-edge developments in technologies within its designated priority research area. The RERC must contribute to this outcome by identifying and communicating with relevant

stakeholders, including NIDRR; individuals with disabilities and their representatives; disability organizations; service providers; editors of professional journals; manufacturers; and other interested parties regarding trends and evolving product concepts related to its designated priority research area.

(6) Increased impact of research in the designated priority research area. The RERC must contribute to this outcome by providing technical assistance to relevant public and private organizations, individuals with disabilities, employers, and schools on policies, guidelines, and standards related to its designated priority research area.

(7) Increased transfer of RERC-developed technologies to the marketplace. The RERC must contribute to this outcome by developing and implementing a plan for ensuring that all technologies developed by the RERC are made available to the public. The technology transfer plan must be developed in the first year of the project period in consultation with the NIDRR-funded Disability Rehabilitation Research Project, Center on Knowledge Translation for Technology Transfer.

In addition, the RERC must--



- Have the capability to design, build, and test prototype devices and assist in the technology transfer and knowledge translation of successful solutions to relevant production and service delivery settings;

- Evaluate the efficacy and safety of its new products, instrumentation, or assistive devices;

- Provide as part of its proposal, and then implement, a plan that describes how it will include, as appropriate, individuals with disabilities or their representatives in all phases of its activities, including research, development, training, dissemination, and evaluation;

- Provide as part of its proposal, and then implement, a plan to disseminate its research results to individuals with disabilities and their representatives; disability organizations; service providers; professional journals; manufacturers; and other interested parties. In meeting this requirement, each RERC may use a variety of mechanisms to disseminate information, including state-of-the-science conferences, webinars, Web sites, and other dissemination methods; and

- Coordinate research projects of mutual interest with relevant NIDRR-funded projects, as identified through consultation with the NIDRR project officer.

### Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the Federal Register. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

This notice does not preclude us from proposing additional priorities, requirements, definitions, or

selection criteria, subject to meeting applicable rulemaking requirements.

Note: This notice does not solicit applications. In any year in which we choose to use this priority, we invite applications through a notice in the Federal Register.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Secretary must determine whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by the Office of Management and Budget (OMB). Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

This final regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this final priority only upon a reasoned determination that its benefits justify its costs. In choosing among alternative regulatory approaches, we

selected those approaches that maximize net benefits. Based on the analysis that follows, the Department believes that this proposed priority is consistent with the principles in Executive Order 13563.

We also have determined that this regulatory action does not unduly interfere with State, local, and tribal governments in the exercise of their governmental functions.

In accordance with both Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

The benefits of the Disability and Rehabilitation Research Projects and Centers Programs have been well established over the years, as projects similar to the one envisioned by the final priority have been completed successfully. Establishing new RERCs based on the final priority will generate new knowledge through research and development and improve the lives of individuals with disabilities. The new RERCs will generate, disseminate, and promote the use of new information that will improve

the options for individuals with disabilities to fully participate in their communities.

Accessible Format: Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the Grants and Contracts Services Team, U.S. Department of Education, 400 Maryland Avenue, SW., room 5075, PCP, Washington, DC 20202-2550. Telephone: (202) 245-7363. If you use a TDD or TTY, call the FRS, toll free, at 1-800-877-8339.

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Dated: April 12, 2013

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Michael K. Yudin,  
Delegated the authority  
to perform the functions  
and duties of the Assistant  
Secretary for Special  
Education and Rehabilitative  
Services.

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